

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GLORIA J. WOODS and DEPARTMENT OF HEALTH & HUMAN  
SERVICES, SOCIAL SECURITY ADMINISTRATION, Chicago, IL

*Docket No. 00-566; Submitted on the Record;  
Issued January 16, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, PRISCILLA ANNE SCHWAB,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that she has permanent impairment of her upper extremities entitling her to a schedule award.

The Board has reviewed the case on appeal and finds that appellant has not established any permanent impairment entitling her to a schedule award.

This case has been before the Board on a prior appeal. In a decision dated June 11, 1999, the Board set aside a June 2, 1997 decision of the Office of Workers' Compensation Programs and remanded the case for further development.<sup>1</sup> The Board found that the Office erred in determining that appellant had failed to appear at a scheduled medical appointment because the Office failed to provide appellant an opportunity to explain her failure to attend the appointment.

On remand, the Office referred appellant to Dr. Richard H. Sidell, Jr., a Board-certified orthopedic surgeon, for a second opinion on whether appellant had a ratable permanent impairment due to her accepted carpal tunnel syndrome. In a report dated August 24, 1999, Dr. Sidell opined that appellant's symptoms were subjective only and chronic in nature. A physical examination revealed normal range of motion in the shoulder, wrists and elbows, normal motor strength, negative wrist compression Tinel's tests, a monofilament test within normal limits and a two point discrimination. Using Table 16 on page 57 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, 4<sup>th</sup> ed., Dr. Sidell determined a maximum impairment of 10 percent and a minimum impairment of 0 percent and recommended a repeat electromyogram to determine whether objective findings would substantiate mild carpal tunnel syndrome.

In a September 11, 1999 report, the Office medical adviser concluded that appellant had a zero percent impairment in both upper extremities. The Office medical adviser noted that

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<sup>1</sup> Docket No. 97-2343 (issued June 11, 1999).

appellant had normal strength in both hands, no thenar atrophy, negative Tinel's and wrist compression tests, and normal point discrimination and monofilament sensation testing.

By decision dated September 21, 1999, the Office denied appellant's claim for a schedule award, relying up on the opinion of the Office medical adviser.

Under section 8107 of the Federal Employees' Compensation Act<sup>2</sup> and section 10.404 of the implementing federal regulations,<sup>3</sup> schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office adopted the A.M.A., *Guides*<sup>4</sup> as a standard for determining the percentage of impairment and the Board has concurred in such adoption.<sup>5</sup>

In this case, the Office medical adviser explained in detail with appropriate references to the A.M.A., *Guides* that, because appellant had normal range of motion of all joints in her hands, normal hand strength and negative testing, she did not have evidence of clinically significant carpal tunnel syndrome which would cause a permanent impairment.

The Board has held that evidence from an Office medical adviser, which is the only medical evidence of record conforming to the A.M.A., *Guides*, can constitute the weight of the medical evidence.<sup>6</sup> Furthermore, Dr. Sidell's report is of little probative value because the physician opined that appellant had at most a 10 percent impairment while also indicating that she had a normal examination.<sup>7</sup> Thus, the Office correctly determined that the weight of the medical evidence rested with the Office medical adviser who determined that appellant had no permanent impairment.

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> A.M.A., *Guides* (4<sup>th</sup> ed. 1993).

<sup>5</sup> *Lela M. Shaw*, 51 ECAB \_\_\_\_ (Docket No. 98-1587, issued March 15, 2000); *Marco A. Padilla*, 51 ECAB \_\_\_\_ (Docket No. 98-1296, issued December 6, 1999).

<sup>6</sup> *Lena P. Hundley*, 46 ECAB 643 (1995).

<sup>7</sup> *Jennifer L. Sharp*, 48 ECAB 209 (1996) (medical opinions which are speculative or equivocal in nature have little probative value).

The decision of the Office of Workers' Compensation Programs dated September 21, 1999 is hereby affirmed.

Dated, Washington, DC  
January 16, 2001

Willie T.C. Thomas  
Member

Priscilla Anne Schwab  
Alternate Member

Valerie D. Evans-Harrell  
Alternate Member